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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,863	01/03/2001	Bruce D. Melick	P04337US1	1777

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MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

EXAMINER

TREMBLAY, MARK STEPHEN

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

Office Action Summary

Application No.

09/753,863

Applicant(s)

MELICK ET AL.

Examiner

Mark Tremblay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21, 22 and 24-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21, 22 and 24-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 21-22 and 24-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent #5,805,152 to Furusawa ("Furusawa" hereinafter). Furusawa teaches a method of using video displayed bar code data in a bar code data interchange, the method comprising:

creating an electronic document (video data- see column 2, lines 46-67) for data interchange, the electronic document comprising descriptive material and associated bar code data 43;

providing the electronic document 43 on a computing device 11;

displaying the bar code data 43 on a video display 12 associated with the computing device (see figures 6 and 10-11);

scanning 13a the bar code data from the video display;

decoding the scanned bar code data into information (the decoding function is normally built into the scanner; "information" or "data" is sent from the scanner to the "data requesting means")

using the information to populate a data field (see e.g. column 5, lines 63-67-- the information becomes a field in a message, which is extracted by the data management means) to thereby complete the data interchange. Furusawa also teaches a database 15, external to the computing device 11. Furusawa does not clearly teach that the bar code data 43 originates outside the computing device, so as to require the step of "transmitting" the bar code data to the computing device 11. However, Furusawa does not teach that the computing device 11 has the capability to create video data (but only to reproduce it). Inherently, the video data must come from somewhere, though Furusawa is silent on it's origin. It would have been obvious at the time the invention was made by a person having ordinary skill in the art to create the video data outside the computing device 11, and "transmit" the data to the computing device, because Furusawa does not teach that the computing device 11 has the ability to create the video , but does teach that the computing device can accept data from outside sources such as database 15.

Furusawa also does not teach that the video display includes text associated with the bar code data. Official notice is taken that text associated with bar code data is old and well known in the art. In order to verify this, virtually any commercial product which has a bar code will suffice as evidence. In the US, a UPC bar code is used to uniquely identify every product commonly sold in stores. So, for example, a particular 16 ounce bottle of peanuts may have a bar code located thereon. This bar code has a number encoded within its bars and spaces, which number is printed directly below it. This number identifies the exact brand, type, packaging, and size of the peanut product. The brand is also written in text on the bottle, as is the size, for example 16 ounce, and the type, for example "dry roasted" or "honey roasted" or "unsalted". Therefore, on the label, a document which is attached to the product, is found text uniquely

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identifying the product, and an associated bar code. It is obvious to provide the two together, so that humans can easily read one type of information, and computers can easily read associated information. Since a similar situation exists within Furusawa, the inclusion of text would logically follow. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to include text associated with the bar code because a human interacting with the video data in Furusawa could understand what is associated with the bar code, in the same way a person would want to read product information associated with a product which has a unique bar code associated with it.

Re claims 22, 24, 30 and 31, Furusawa teaches, for example, that one application may be playing a video clip, and a second application may be printing specifications for furniture.

Re claim 23, creating the bar code data is inherent in its existence. Bar code data does not occur naturally.

Re claims 25 and 29, Applicant has admitted high rate LED scanners as commercially available prior art. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use any commercially available scanner as scanner 13a. Since high rate scanners such as the Welch Allyn Scanteam 3400 CCD were commercially available, it would have been obvious to use such a high rate scanner in the context of the teachings of Furusawa.

Re claims 31-35, Furusawa has given an example of retrieving data from an external database 15, and displaying it. Official notice is taken that e-mail and web pages were old and well known at the time the invention was made, and were species of processes wherein data was retrieved from an external database, in a format that was designed to be displayed. It would have

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been obvious to a person having ordinary skill in the art at the time the invention was made to use the e-mail and web page species of retrieval of data from the external database because e-mail and web pages were well known and popular ways of communicating written data about all types of objects found in houses, such as furniture.

Remarks

When a "message" travels from one computer to another, it typically involves a header, or its equivalent, and various "fields". This is true within the bar code arts. Often, the header is a simple character such as an asterisk, or the header may be a check-sum. The header can also be a more involved field with packet information, etc. The data within the message, in Furusawa, would include the decoded bar code data. In order that this be extracted properly, in the computer arts this is always included within a "field" within the message so that it can be reliably retrieved.

Likewise, the shift from "bar code data" to "electronic document" in the amended claims was unpersuasive. Clearly, Furusawa can be construed as addressing "electronic documents" since video data, when it is stored electronically, must be considered either an electronic document or a series of electronic documents.

Voice

Inquiries for the Examiner should be directed to Mark Tremblay at (571) 272-2408. The Examiner's regular office hours are 10:30 am to 7:00 pm EST Monday to Friday. Voice mail is available. If Applicant has trouble contacting the Examiner, the Supervisory Patent Examiner, Michael Lee, can be reached on (571) 272-2398. Technical questions and comments concerning PTO procedures may be directed to the Patent Assistance Center hotline at 1-800-786-9199 or (703) 308-4357.

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MARK TREMBLAY
PRIMARY EXAMINER
March 21, 2005